

Cocroft, Kimberly X.

Exhibit 132

From: Cocroft, Kimberly X.
Sent: Friday, December 6, 2024 12:02 PM
To: Hiers, Amy L.
Subject: RE: Writ of Mandamus and Summons

Thank you, Ms. Hiers. Ms. Miller indicated that they must review my request before providing an answer regarding representation. To the extent that another County Prosecutor can be contacted now, then that is my preference. I must file a responsive pleading by December 21, 2024 and will likely begin drafting that document now so that I am not in a predicament based on this uncertain circumstance.



Judge Kimberly Cocroft

Pronouns: She/Her/Hers

Franklin County Common Pleas Court

345 South High Street | 4th Floor | Columbus, OH 43215-4554

(P) 614.525.7200 | (F) 614.525.4641

Kimberly_Cocroft@fccourts.org | <http://www.fccourts.org>

From: Hiers, Amy L. <ahiers@franklincountyohio.gov>
Sent: Friday, December 6, 2024 11:39 AM
To: Cocroft, Kimberly X. <Kimberly_Cocroft@fccourts.org>
Subject: Re: Writ of Mandamus and Summons

Good morning, Judge Cocroft,

If DAS does deny coverage, please let us know and we will reach out to another county prosecutor's office to seek representation for you; you will not be without representation.

Thank you,

Amy

Amy Hiers

Deputy Chief Counsel and Director of Litigation

Civil Division

373 S. High Street, 13th Floor

Columbus, OH 43215

Phone: 614-525-3910

Fax: 614-525-6012

ahiers@franklincountyohio.gov

Office of G. Gary Tyack

Franklin County Prosecuting Attorney



From: Hiers, Amy L. <ahiers@franklincountyohio.gov>
Sent: Friday, December 6, 2024 10:45 AM
To: Cocroft, Kimberly X. <Kimberly_Cocroft@fccourts.org>
Subject: Re: Writ of Mandamus and Summons

Good morning, Judge Cocroft,

My understanding is that when we have contacted DAS in the past, we have been told the judge must be the one to do it. We do not believe this process, which is set by DAS, has changed.

We are recusing from cases representing you, based on the advice of ethics counsel, because you have alleged a claim against First Assistant Hummer; this creates a conflict between you and First Assistant Hummer, who, as you know, is Chief Counsel of the Civil Division. All assistant prosecutors in the Civil Division report to First Assistant Hummer and, therefore, we are unable to effectively screen other actions in which the Office represents you to mitigate the conflict.

As to the criminal cases pending in your Court, as you know, you can disqualify yourself from any matter if you believe you are unable to be impartial or make an unbiased ruling. Prosecutor Tyack has decided not to file affidavits of disqualification because we do not believe that is necessary at this time.

Thank you,

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As an aside, if ethics counsel has determined that there is a conflict with your office, then how does that impact the myriad Assistant Prosecuting Attorneys for criminal matters that appear in my courtroom daily? This recent position seems so incongruent to the work I do in my official capacity. But I will not continue to make sense of what feels like a convenient and inauthentic position that is not supported by Ohio law.

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First, I appreciate your willingness to communicate with me and regret that you have been placed in the position of addressing this circumstance.

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To say that I am disappointed and stunned would be an understatement. Be that as it may, I will continue to do what is necessary to protect my professional standing and interests.

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Ms. Hiers:

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I reviewed the pleading and cannot understand what is being alleged and against whom. In any event, I would appreciate your assistance in preparing a responsive pleading. I have copied my Staff Attorney on this communication; he has limited insight on this case, as it is a very new matter assigned to me.

If you have questions for either of us, then please do not hesitate to contact us. If I have sent this to you in error, then I would appreciate your guidance on the appropriate person to receive this.

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Sent: Monday, December 9, 2024 9:35 AM
To: Hiers, Amy L.
Subject: RE: Writ of Mandamus and Summons

Ms. Hiers:

Thank you for this information.

While I appreciate that DAS has required the impacted judge to make the call when the prosecutor's office asserts a conflict, it seems illogical that I would be requesting counsel based on a conflict that I have not asserted. In this instance, Ms. Miller has indicated that her office will "review" my request, which infers that DAS will likely gather information from the entity asserting the conflict to make a decision regarding representation. As an aside, are you permitted to tell me how many times this issue has arisen and how long it took for DAS to make a determination regarding representation?

Additionally, I am aware of Ms. Hummer's leadership role within the office, as well as the claims I have asserted against her. However, you serve as Deputy Chief Counsel and Director of Litigation and I presume that means you are second in command, should there be an issue regarding the Chief Counsel's leadership. So, I continue to be unclear about how or why you cannot assume responsibility for the assignment of an assistant prosecuting attorney to represent me in my official capacity and to facilitate the filing and management of a responsive pleading. Perhaps you have been instructed that you are not permitted to assume that role, but such an assertion seems to defy and undermine the inherent leadership structure that exists.

Finally, my reference to continued appearances by assistant prosecuting attorneys in criminal matters was not to suggest in any way that I believe a conflict exists. Rather, it was to highlight the inherent inconsistency that borders on absurdity regarding the ability of lawyers in your office to interact with me in my official capacity. So that my position is clear, I will not file an affidavit of disqualification related to any criminal matters assigned to my docket, nor will I file an affidavit of disqualification for any civil matters assigned to my docket for which lawyers in your office provide standard entries and orders that require my signature. I am, however, concerned by your statement that "Prosecutor Tyack has decided not to file affidavits of disqualification because we do not believe that is necessary at this time." Is there some action or event that would lead Prosecutor Tyack to believe that filing affidavits of disqualification would be necessary at some time? Have there been conversations regarding this option and the collateral consequences of hindering my ability to do the work I was elected to do?

In truth, the position taken by someone in your office feels both punitive and retaliatory and is not based in whole or in part on case law, statutory law, ethics advisory opinions, or historical practice. As I stated repeatedly, I appreciate your professionalism and willingness to engage in thoughtful communication, but I am stunned, disappointed and, candidly, stressed by this unnecessary development and position. I will restate my request that your office refer this matter to another county prosecutor's office and will reemphasize my decision to prepare my own responsive pleading in the event that I have no counsel of record prior to the date by which my filing is due.

Be well and have a great day.



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From: Hiers, Amy L. <ahiers@franklincountyohio.gov>

Sent: Wednesday, December 4, 2024 4:40 PM

To: Cocroft, Kimberly X. <Kimberly_Cocroft@fccourts.org>

Subject: Re: Writ of Mandamus and Summons

Good afternoon, Judge Cocroft,

Thank you for your patience with my delayed response as I am out of the office.

We are relying on the advice of our ethics counsel, who reviewed the allegations in the complaint that you filed in federal court.

Thank you,

Amy

Amy Hiers

Deputy Chief Counsel and Director of Litigation
Civil Division
373 S. High Street, 13th Floor
Columbus, OH 43215
Phone: 614-525-3910
Fax: 614-525-6012
ahiers@franklincountyohio.gov

Office of G. Gary Tyack
Franklin County Prosecuting Attorney



Franklin County Prosecutor's Office

From: Cocroft, Kimberly X. <Kimberly_Cocroft@fccourts.org>
Sent: Tuesday, December 3, 2024 10:06 PM
To: Hiers, Amy L. <ahiers@franklincountyohio.gov>
Subject: RE: Writ of Mandamus and Summons

Ms. Hiers:

As a point of clarification, I have not named "your office" in litigation. However, and so that I am clear, if there is any matter in which I am sued in my official capacity as a judge, I am now responsible for obtaining my own representation; is that correct? If yes, then are you permitted to provide me with an ethics advisory opinion or some other case law that supports this conclusion? Or would I be responsible for obtaining that from Ms. Miller, as well?

This is not an affront to you, personally, but I am both surprised and dismayed that I was not advised of this position. But, at this point, very little should surprise me.

Be well.



Judge Kimberly Cocroft

Pronouns: She/Her/Hers

Franklin County Common Pleas Court

345 South High Street | 4th Floor | Columbus, OH 43215-4554

(P) 614.525.7200 | (F) 614.525.4641

Kimberly_Cocroft@fccourts.org | <http://www.fccourts.org>

From: Hiers, Amy L. <ahiers@franklincountyohio.gov>

Sent: Tuesday, December 3, 2024 4:10 PM

To: Cocroft, Kimberly X. <Kimberly_Cocroft@fccourts.org>

Subject: RE: Writ of Mandamus and Summons

Good afternoon, Judge Cocroft,

Thank you for forwarding this to me. Unfortunately, given the pending litigation against our office, ethics counsel has advised that we are unable to represent you in this matter.

I believe you could reach out to Bobbi Miller, DAS Risk Administrator, to inquire about representation. Her email is: Bobbi.Miller@das.ohio.gov.

Thank you,

Amy

Amy Hiers

Deputy Chief Counsel and Director of Litigation

Civil Division

373 S. High Street, 13th Floor

Columbus, OH 43215

Phone: 614-525-3910

Fax: 614-525-6012

ahiers@franklincountyohio.gov

Office of G. Gary Tyack
Franklin County Prosecuting Attorney



Franklin County Prosecutor's Office

From: Cocroft, Kimberly X. <Kimberly_Cocroft@fccourts.org>
Sent: Tuesday, December 3, 2024 3:31 PM
To: Hiers, Amy L. <ahiers@franklincountyohio.gov>
Cc: Klage, Luke M. <Luke_Klage@fccourts.org>
Subject: Writ of Mandamus and Summons

Ms. Hiers:

First, I hope that you are well.

Next, I received the attached Writ of Mandamus and Summons about 15 minutes ago. The petitioner in the matter filed litigation that was assigned to me (24CV-7002) on September 11, 2024. No service has been perfected; however, the litigant has filed myriad motions since the complaint was filed including, but not limited to, a motion for summary judgment, an amended complaint, and a motion for protective order.

I reviewed the pleading and cannot understand what is being alleged and against whom. In any event, I would appreciate your assistance in preparing a responsive pleading. I have copied my Staff Attorney on this communication; he has limited insight on this case, as it is a very new matter assigned to me.

If you have questions for either of us, then please do not hesitate to contact us. If I have sent this to you in error, then I would appreciate your guidance on the appropriate person to receive this.

Thank you!

Best,

Judge KC



Judge Kimberly Cocroft

Pronouns: She/Her/Hers

Franklin County Common Pleas Court

345 South High Street | 4th Floor | Columbus, OH 43215-4554

(P) 614.525.7200 | (F) 614.525.4641

Kimberly_Cocroft@fccourts.org | <http://www.fccourts.org>

From: GEN-4EF-COPY@fccourts.org <GEN-4EF-COPY@fccourts.org>

Sent: Tuesday, December 3, 2024 3:36 PM

To: Cocroft, Kimberly X. <Kimberly_Cocroft@fccourts.org>

Subject: Message from GEN-4EF-COPY.fccourt.gov

Cocroft, Kimberly X.

From: Cocroft, Kimberly X.
Sent: Tuesday, December 10, 2024 10:11 AM
To: Hiers, Amy L.
Subject: RE: appointment of special counsel

Good morning, Ms. Hiers:

I spoke with Ms. DePalma this morning and she advised me of the decision of DAS to reject representation based on a new understanding of the coverage provided to judges under the liability policy that excludes the defense of writs. She also advised that Montgomery County was contacted to accept the assignment.

I have begun drafting my responsive pleading and will send what I have to that office once the draft is complete. I will not to contact that office now, as Ms. DePalma explained that I must receive the "official" denial letter before the engagement could begin in earnest.

Thank you.



Judge Kimberly Cocroft

Pronouns: She/Her/Hers

Franklin County Common Pleas Court

345 South High Street | 4th Floor | Columbus, OH 43215-4554

(P) 614.525.7200 | (F) 614.525.4641

Kimberly_Cocroft@fccourts.org | <http://www.fccourts.org>

From: Hiers, Amy L. <ahiers@franklincountyohio.gov>
Sent: Tuesday, December 10, 2024 9:41 AM
To: Cocroft, Kimberly X. <Kimberly_Cocroft@fccourts.org>
Subject: appointment of special counsel

Good morning, Judge Cocroft,

First Assistant Hummer contacted Montgomery County Prosecuting Attorney Heck last Friday in case DAS rejected coverage. Prosecutor Heck agreed to serve as special counsel if that happened.

We have received notice that DAS is rejecting coverage. Our office has filed a motion and entry to appoint Prosecutor Heck as special counsel to respond on your behalf to the complaint filed by April Clark.

We are awaiting the court order. Once the order is received, Prosecutor Heck's office will contact you or you may contact his office, if you do not want to wait. We have already sent the filings to Prosecutor Heck.

Ward Barrentine, who is the Chief of the Civil Division for the Montgomery County Prosecutor's Office, will be the lead and your contact on this matter. His contact information is BarrentinW@mcohio.org and his direct number is 937.496.7797.

Thank you,

Amy

Amy Hiers

Deputy Chief Counsel and Director of Litigation
Civil Division
373 S. High Street, 13th Floor
Columbus, OH 43215
Phone: 614-525-3910
Fax: 614-525-6012
ahiers@franklincountyohio.gov

Office of G. Gary Tyack

Franklin County Prosecuting Attorney



Franklin County Prosecutor's Office

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Cocroft, Kimberly X.

From: Cocroft, Kimberly X.
Sent: Tuesday, December 10, 2024 10:43 AM
To: Denise.DePalma@das.ohio.gov
Cc: Bobbi.Miller@das.ohio.gov
Subject: RE: Follow up regarding writ

Thank you, Ms. DePalma.



Judge Kimberly Cocroft

Pronouns: She/Her/Hers

Franklin County Common Pleas Court

345 South High Street | 4th Floor | Columbus, OH 43215-4554

(P) 614.525.7200 | (F) 614.525.4641

Kimberly_Cocroft@fccourts.org | <http://www.fccourts.org>

From: Denise.DePalma@das.ohio.gov <Denise.DePalma@das.ohio.gov>
Sent: Tuesday, December 10, 2024 10:42 AM
To: Cocroft, Kimberly X. <Kimberly_Cocroft@fccourts.org>
Cc: Bobbi.Miller@das.ohio.gov
Subject: Follow up regarding writ

Judge Cocroft – I received a called from Ms. Hummer regarding an email she received from you. Ms. Hummer asked me whether it is DAS Risk Management’s position that you cannot reach out to other counsel to represent you until receiving your denial of coverage letter. I wanted to make sure you are aware that this is not the case.

I asked Ms. Miller to send your denial of coverage letter today.

Thank you,



**Department of
Administrative
Services**

Denise DePalma
Chief Legal Counsel, Office of Legal Services
30 East Broad Street, Suite 4023
Columbus, Ohio 43215
D: 614.466.0767 C: 614.361.9133
Denise.DePalma@das.ohio.gov

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Cocroft, Kimberly X.

From: Cocroft, Kimberly X.
Sent: Tuesday, December 10, 2024 10:48 AM
To: Denise.DePalma@das.ohio.gov
Cc: Bobbi.Miller@das.ohio.gov
Subject: RE: Follow up regarding writ

Ms. DePalma:

I presumed that the coverage request would be denied, so I have begun drafting my responsive pleading. So, however this works out, I will have something filed.



Judge Kimberly Cocroft

Pronouns: She/Her/Hers
Franklin County Common Pleas Court
345 South High Street | 4th Floor | Columbus, OH 43215-4554
(P) 614.525.7200 | (F) 614.525.4641
Kimberly_Cocroft@fccourts.org | <http://www.fccourts.org>

From: Denise.DePalma@das.ohio.gov <Denise.DePalma@das.ohio.gov>
Sent: Tuesday, December 10, 2024 10:42 AM
To: Cocroft, Kimberly X. <Kimberly_Cocroft@fccourts.org>
Cc: Bobbi.Miller@das.ohio.gov
Subject: Follow up regarding writ

Judge Cocroft – I received a called from Ms. Hummer regarding an email she received from you. Ms. Hummer asked me whether it is DAS Risk Management’s position that you cannot reach out to other counsel to represent you until receiving your denial of coverage letter. I wanted to make sure you are aware that this is not the case.

I asked Ms. Miller to send your denial of coverage letter today.

Thank you,



**Department of
Administrative
Services**

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Cocroft, Kimberly X.

From: Bobbi.Miller@das.ohio.gov
Sent: Tuesday, December 10, 2024 11:45 AM
To: Cocroft, Kimberly X.
Cc: Denise.DePalma@das.ohio.gov
Subject: RE: Writ of Mandamus and Summons
Attachments: 2024021447 JL Coverage Denial letter-Judge Cocroft.pdf; Copy of 7-1-2024 to 7-1-2025 OJPSILP Program Terms & Conditions.pdf

Attached is the coverage denial letter concerning case no. 2024-1656 along with a copy of the program terms and conditions.

Please let me know if you have any questions.



Bobbi Miller
Risk Administrator, Office of Risk Management
4200 Surface Road
Columbus, OH 43228
614-752-0486
Bobbi.miller@das.ohio.gov

Visit [OhiolmaginationLibrary.org](https://ohiolmaginationlibrary.org) to start a child's free monthly book delivery!

From: Cocroft, Kimberly X. <Kimberly_Cocroft@fccourts.org>
Sent: Friday, December 6, 2024 8:43 AM
To: Miller, Roberta <Bobbi.Miller@das.ohio.gov>
Cc: DAS Risk Management <das.riskmanagement@das.ohio.gov>
Subject: FW: Writ of Mandamus and Summons
Importance: High

Good morning:

On Monday, I was served with a Writ of Mandamus and Summons, which I have attached to this communication. Because I am currently a sitting judge in Franklin County, I forwarded the documents to the lawyers who are statutorily required to provide representation to county officers. However, as you will note from the communications below, I was advised that representation is no longer available to me because of my decision to assert lawful claims of discrimination based on race and gender, hostile work environment, and retaliation against two individual defendants who work for the Court. Since I was provided with no advisory opinion or case law in support of this conclusion, I can only speculate about

the accuracy and veracity of this position. However, I am particularly concerned because I was not proactively informed of this position prior to this past Monday.

Be that as it may, I was advised to contact you regarding representation in this matter, even though I am not the person or entity asserting a conflict. Because I must respond to the Writ by December 20, 2024, I would appreciate any immediate guidance or assistance you may be able to provide.

Thank you for your time and consideration, and I look forward to hearing from you.

Yours truly,



Judge Kimberly Cocroft

Pronouns: She/Her/Hers

Franklin County Common Pleas Court

345 South High Street | 4th Floor | Columbus, OH 43215-4554

(P) 614.525.7200 | (F) 614.525.4641

Kimberly_Cocroft@fccourts.org | <http://www.fccourts.org>

From: Cocroft, Kimberly X.

Sent: Friday, December 6, 2024 8:33 AM

To: Hiers, Amy L. <ahiers@franklincountyohio.gov>

Subject: RE: Writ of Mandamus and Summons

Thank you, Ms. Hiers, for this information.

I am just dumbfounded by the fact that I am responsible for even facilitating this process. To my knowledge, I am still a member of this Court in good standing. But now, what I am being asked to do is assert a conflict that your office believes it has with me. To that end, it seems that your office would be responsible for reaching out to DAS to explain your purported conflict because I don't have a conflict with your office. Again, this is not an affront to you, as I am confident you were selected to be the messenger to share this surprising message. You have always exhibited the height of professionalism.

As an aside, if ethics counsel has determined that there is a conflict with your office, then how does that impact the myriad Assistant Prosecuting Attorneys for criminal matters that appear in my courtroom daily? This recent position seems so incongruent to the work I do in my official capacity. But I will not continue to make sense of what feels like a convenient and inauthentic position that is not supported by Ohio law.

Be well and have a great weekend.



Judge Kimberly Cocroft

Pronouns: She/Her/Hers

Franklin County Common Pleas Court

345 South High Street | 4th Floor | Columbus, OH 43215-4554

(P) 614.525.7200 | (F) 614.525.4641

Kimberly_Cocroft@fccourts.org | <http://www.fccourts.org>

From: Hiers, Amy L. <ahiers@franklincountyohio.gov>

Sent: Thursday, December 5, 2024 12:43 PM



**Department of
Administrative
Services**

DAS.Ohio.gov

Mike DeWine, Governor Jon Husted, Lt. Governor Kathleen C. Madden, Director

December 10, 2024

The Honorable Kimberly Cocroft
Franklin County Common Pleas Court
345 South High St, Courtroom 4E
Columbus, OH 43215

RE: Our Claim No.: 2024021447
Plaintiff: April Clark
Venue: Supreme Court-Ohio
Case No.: 2024-1656

Dear Judge Cocroft:

The Office of Risk Management (ORM) acknowledges receipt of the above-captioned claim.

The Ohio judges' professional liability program is self-insured. Please find enclosed a copy of the program's terms and conditions for your review.

Scope of Coverage:

- Coverage applies to "personal or individual capacity claims". The coverage does not extend to or apply to "official capacity claims."

Because the plaintiff is suing you in your official capacity, there is no coverage through the program.

Program Exclusions:

- There is no coverage for any suit or writ seeking equitable or extraordinary relief. There is no self-insured coverage for claims expenses.

Because the plaintiff is seeking equitable or extraordinary relief, there is no coverage through the program.

Should you have any questions or concerns, please do not hesitate to call me at (614) 752-0486.

Sincerely,

Bobbi Miller

Bobbi Miller
Office of Risk Management
Phone: (614) 752-0486
Fax: (614) 351-4335
Email: bobbi.miller@das.ohio.gov

cc: Denise DePalma